

## Remarks

The present response is filed with a Request for Continued Examination (RCE), and is to the Office Action mailed in the above referenced case on April 26, 2005, made Final. Claims 1-12 are presented below for Examination. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. Claims 1-12 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Sriram in view of Kalkunte.

In response to the Examiner's 112 rejection applicant amends the base claims to remove the objectionable language. In response to the Examiner's merit rejections of applicant's independent claims, applicant amends the claims to recite that the queue value is selectively assigned to a specific queue based on preferences for transferring the data from its assigned queue onto the link, and that after the initial queue value assignment further changes to the queue value for each queue may be selectively changed based on other preferences for transfer of the data onto the link. Applicant further provides argument that the prior art, either singly or in combination, does not and cannot produce applicant's invention, as embodied in the claims as amended. Applicant further points out and argues the key limitations of applicant's base claims as amended, which distinguish clearly and unarguably over the prior art presented. For convenience and as an aid in prosecution applicant reproduces independent claim 1 as amended below.

Applicant's claim 1 as amended now recites:

*1. (amended) A method of controlling data traffic at a node on a network, said node having at least one output coupled to at least one link on the network, said method comprising:*

*defining a bandwidth value for the at least one link related to a maximum amount of data to be transferred on the link;*

*providing a plurality of queues for storing data to be transferred on the at least*

one link;

*assigning a queue value to each of the plurality of queues, each of said queue values being related to a preference for transferring data from its assigned queue onto the link; and*

*assigning a data limit value to each of the plurality of queues, an amount of data being transferred onto the link from each queue being limited by the data limit value assigned to the queue, and each of said data limit values being derived from the bandwidth value for the at least one link, wherein if one of the plurality of queues has no data traffic, said queue's data traffic capacity is allocated among the other queues;*

*characterized in that the queue value is selectively assigned to a specific queue based on preferences for transferring the data from its assigned queue onto the link, and further characterized in that after the initial queue value assignment, further changes to the queue value for each queue may be selectively changed based on other preferences for transfer of the data onto the link.*

Applicant's independent claim 7 recites an apparatus for controlling data traffic at a node on a network in accordance with the limitations of claim 1, and has been similarly amended to overcome the Examiner's 112 rejection and to clearly and unarguably distinguish applicant's claim over the prior art presented, either singly or in combination.

Regarding the reference of Sriram it is clear that each queue is assigned a certain data characteristic based on classification of the incoming data destined for output to link 28, and that the value assigned to the queue is not selectively assigned, and that after initial assignment of value to the queue, Sriram fails to teach that changes to the queue values may be selectively made for each queue based on other preferences for transfer of the data onto the link. Sriram clearly teaches that it is the incoming data destined for output to link 28 that is classified (value assigned); it is not the queues themselves that are assigned priority value, as in applicant's invention and claims as amended. Sriram teaches that the incoming data is selectively directed to a particular queue depending on the type, or classification of the data and each queue of the plurality of queues is restricted

to a certain type of data. Which queue holds which type of data is purely dependent on the type of data destined for output to the link, not any type of selectable priority assignment to the queues themselves. The Examiner, in his remarks of the instant Office Action has admitted that Sriram fails to teach or suggest these specific limitations as now recited in the claims as amended.

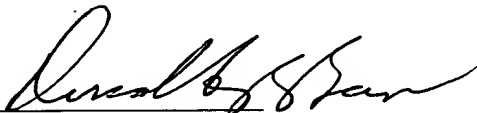
In applicant's previous response the Examiner has stated that, even though applicant has distinguished the claimed invention over the prior art by argument presented, as supported in applicant's specification, the claims themselves failed to convey this clear and obvious distinction. In view of applicant's above amendments to the independent claims however, the specific limitations are now recited in the claim language and therefore now clearly and unarguably distinguish applicant's claims over the primary reference of Sriram.

In the instant Office Action the Examiner has relied on the secondary reference of Kalkunte for teaching wherein if one of the plurality of queues has no data traffic, said queues' data traffic capacity is allocated among other queues. However, applicant's independent claims as amended now clearly distinguish over the reference of Sriram, which renders the reference as an invalid primary reference which should now be withdrawn. The combined references now fail to teach or suggest all of the limitations of applicant's independent claims as amended.

Applicant's claims 1 and 7 as amended to overcome the Examiner's 112 and 103 rejections are therefore now patentable over the references provided by the Examiner, either singly or in combination. Depending claims 2-6 and 8-12 are then patentable on their own merits, or at least has depended from a patentable claim.

As all of the claims standing for examination are now patentable over the rejections of the Examiner, applicant respectfully requests reconsideration after Final, and that the present case be passed quickly to issue. If there are any time extensions due beyond any extension requested and paid with this amendment, such extensions are hereby requested. If there are any fees due beyond any fees paid with the present amendment, such fees are authorized to be deducted from deposit account 50-0534.

Respectfully Submitted,  
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